

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID DANIELS,

Plaintiff, No. CIV S-03-0400 MCE GGH P

vs.

W. YOUNT, et al.,
Defendants.

ORDER AND
FINDINGS & RECOMMENDATIONS

By order filed July 31, 2007, this court directed plaintiff to file a pretrial statement on or before September 7, 2007. Plaintiff has not responded to the court's order. The court will therefore recommend that this action be dismissed without prejudice. See Fed. R. Civ. P. 16(f); Local Rule 11-110.

In accordance with the above, IT IS HEREBY ORDERED that:

1. Defendants are relieved from filing a pretrial statement.
2. The pretrial conference set for September 28, 2007, and the jury trial set for December 10, 2007, are vacated; and

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Fed. R. Civ. P. 16(f); Local Rule 11-110.

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These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served and filed within ten days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: 10/1/07

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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